

REMARKS

Claims 1-3, 6, 15, 21, 24, 38, 43, 44 and 52-64 are pending in the above-identified application and are subjected to an election of species requirement. Claims 1 and 43 are amended to recite “the processed chicory product of claim 44.” Support for these amendments can be found throughout the application as filed. Claim 43 is also amended to correct formatting of the claim, and claim 44 is amended to correct a grammatical error. No new matter is added by way of these amendments. Upon entry of this response, claims 1-3, 6, 15, 21, 24, 38, 43, 44 and 52-64 will be pending and are presented for further examination.

Amendments to the Claims

As indicated in the claim set, claims 1 and 43 are amended to recite “the processed chicory product of claim 44.”

The shared special technical feature of the invention is the chicory product, which, as recited in all independent claims, comprises at least inulin, at least one low molecular sugar and at least one secondary metabolite, wherein the chicory product is selected from the group consisting of: a silage product, a fermented product, a heated product, a dried product, and an extract. Pending claims 1-3, 6, 15, 21, 24, 38 and 43 are thus unitary with the product claims of claims 44 and 52-64 and relate to a single general inventive concept under PCT Rule 13.1 and 13.2. Accordingly, Applicants respectfully request continued examination of pending claims 1-3, 6, 15, 21, 24, 38 and 43 with claims 44 and 52-58.

Restriction/Election Requirement

The Examiner has alleged a lack of unity of invention due to the perception of more than one species in the application. In particular, the Examiner alleges that each species in claim 57 is structurally and functionally distinct from the other and will result in distinct physiological effects. Applicants are required under 35 U.S.C. § 121 to elect a single disclosed species, or a single grouping of patentably indistinct species, for prosecution on the merits to which the claims shall be restricted if no generic claim is finally held to be allowable. In the current Office communication, claim 44 is deemed to be generic.

In response to the species election, Applicants elect sesquiterpene lactones as the at least one secondary metabolite. Claims 1-3, 6, 15, 21, 24, 38, 43-44 and 52-58 are generic to or read on the elected species. Pursuant to the provisions of M.P.E.P. § 809.02(a), upon allowance of a generic claim, Applicants will be entitled to claims to additional species which depend from or otherwise require all the limitations of an allowable generic claim as provided by 37 C.F.R. § 1.141.

Conclusion

Applicants submit that the present Application is in condition for substantive examination and respectfully request the same. If any issues remain, the Examiner is cordially invited to contact Applicants' representative at the number provided below in order to resolve such issues promptly.

Respectfully submitted,

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